

9.0 ADMINISTRATION AND PROCEDURES

9.1 ADMINISTRATION

9.1.1 Permits. This ordinance shall be administered by the Building Commissioner. Pursuant to the State Building Code, the Building Commissioner may require such plans and specifications as may be necessary to determine compliance with all pertinent laws of the Commonwealth and may request advisory reviews by other municipal boards and officials. Buildings, structures or signs may not be erected, substantially altered, moved, or changed in use and land may not be substantially altered or changed with regard to size or shape or principal use unless in compliance with then-applicable zoning, and after all necessary permits have been received under federal, state, or local law. Issuance of a Building Permit or Certificate of Use and Occupancy, where required under the Commonwealth's State Building Code, may serve as certification of such compliance.

9.1.2 Occupancy Permit. No premises, building, structure or land shall be occupied, used or changed in use, or used in the conduct of any business, without an occupancy permit in the name of said business, if applicable, signed by the Inspector of Buildings, which permit shall not be issued until the buildings, structure, or premises and its uses comply in all respects with this ordinance. This provision shall not apply to businesses using or occupying premises at the time of passage of this ordinance.

1. *Temporary Permit.* A temporary occupancy permit may be issued in appropriate cases.

9.1.3 Enforcement. The Building Commissioner shall institute and take any and all such action as may be necessary to enforce full compliance with any and all of the provisions of this ordinance and of permits, special permits, variances, and site plan approval issued thereunder, including notification of noncompliance and legal action through in conjunction with the Office of the City Solicitor.

9.1.4 Penalties. The penalty for violation of any provision of this ordinance, of any of the conditions under which a permit is issued, or of any decision rendered by the Board of Appeals, any special permit granting authority, or the site plan approval board shall be three hundred dollars (\$300.00) for each offense. Each day that each violation continues shall constitute a separate offense.

9.1.5 Non-criminal disposition. Pursuant to Chapter 21D, the Building Commissioner may enforce this Zoning Ordinance by the non-criminal disposition of the matter.

9.2 BOARD OF APPEALS

9.2.1 Establishment. The Zoning Board of Appeals is established consistent with the provisions of G.L. c. 40A, s. 12 and in accordance with Chapter 103 of the Acts of 1994, and the provisions of the Administrative Code of the City of Chelsea. The appointment of associate members, as provided by statute, shall be permitted.

9.2.2 Powers. The Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B, and 41 of the General Laws of the Commonwealth and by this ordinance. The Board's powers are as follows:

1. To hear and decide applications for special permits. Unless otherwise specified herein, the Board of Appeals shall serve as the special permit granting authority, to act in all matters in accordance with the provisions of Section 9.3, or as otherwise specified.
2. To hear and decide appeals or petitions for variances from the terms of this ordinance, with respect to particular land or structures, where owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning

district in which it is located, a literal enforcement of the provisions of the ordinance would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and where desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this ordinance, all as set forth in G.L. c. 40A, s. 10. The Board of Appeals shall not grant use variances.

3. To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of G.L. c. 40A, ss. 7, 8 and 15.

4. To hear and decide comprehensive permits for construction of low or moderate income housing by a public agency or limited dividend or nonprofit corporation, as set forth in G.L. c. 40B, ss. 20-23.

9.2.3 Variances. Each petition or appeal for a variance from the specific terms of a zoning regulation shall include a written statement justifying the petition or appeal on the basis that all of the following conditions are met, as required by G.L. c. 40A, s. 10:

1. The variance is sought because of soil conditions, shape or topography of such land or structure and especially affecting such land or structures but not affecting generally the zoning district in which it is located.

2. A literal enforcement of the provisions of this ordinance would involve a substantial hardship, financial or otherwise, to the petitioner or appellant.

3. Desirable relief may be granted without substantial detriment to the public good, and

4. Desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of this ordinance.

9.2.4 [Reserved]

9.2.5 Conditions. Variances or special permits may be granted by the Board of Appeals with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the board of appeals may deem necessary to serve the purposes of this ordinance. Such conditions may include, but are not limited to: private disposal of waste; deadline to commence construction; signage; alarm system; limits on vehicles, number of students, gender of residents, noise, possession of substances; maintenance requirements; landscaping, parking spaces; dust control; term for years with or without automatic renewals; sewer connection; bond.

9.2.6 Regulations. The Board of Appeals may adopt rules and regulations for the administration of its powers.

9.2.7 Fees. The Board of Appeals may adopt reasonable administrative fees and technical review fees for petitions for variances, administrative appeals, and applications for comprehensive permits.

9.3 SPECIAL PERMITS

9.3.1 Special Permit Granting Authority. Unless specifically designated otherwise, the Board of Appeals shall act as the special permit granting authority.

9.3.2 Criteria. Special permits shall be granted by the special permit granting authority, unless otherwise specified herein, only upon its written determination that the benefit to the city and the neighborhood outweigh the adverse effects of the proposed use, taking into account the characteristics of the site and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this ordinance,

the determination shall include consideration of each of the following:

1. Social, economic, or community needs which are served by the proposal;
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structures;
5. Impacts on the natural environment, including drainage; and
6. Potential fiscal impact, including impact on city services, tax base, and employment.

9.3.3 Procedures. Applicants shall file fifteen (15) copies of the special permit application and plans with the City Clerk. Whenever an application for a special permit is so filed, the applicant shall also file, within five (5) working days of the filing of the completed application, copies of the application and plans with the Board of Health, Conservation Commission, Building Commissioner, Department of Public Works, and Planning Board, for their consideration, review, and report.

1. Reports from other boards and officials shall be submitted to the special permit granting authority by the date of the public hearing, but in any case within thirty-five (35) days of receipt of the reviewing party of all of the required materials; failure of these reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto.
2. In the event that the public hearing by the special permit granting authority is held prior to the expiration of the 35 day period, said authority shall continue the

Public Hearing to permit the formal submission of reports and recommendations within that 35 day period.

3. The provisions of this Section 9.3.3 shall not apply to applications for special permits to reconstruct, extend, alter, or structurally change a nonconforming single or two family structure. The Board of Appeals may adopt regulations to establish procedures governing the form of such applications.

9.3.4 Plans and Other Submittals. An applicant for a special permit shall submit a plan in substantial conformance with the requirements of Section 9.4, herein. At the discretion of the special permit granting authority, the submittal of a development impact statement (DIS) may be required. The DIS shall be prepared by an interdisciplinary team including a Registered Landscape Architect or Architect, a Registered Professional or Civil Engineer, and a Registered Surveyor.

1. Physical Environment.

- (a) Describe the general physical conditions of the site, including amounts and varieties of vegetation, general topography, unusual geologic, archeological, scenic and historical features or structures, location of significant viewpoints, stone walls, trees over 16 inches in diameter, trails and open space links, and indigenous wildlife.
- (b) Describe how the project will affect these conditions, providing a complete physical description of the project and its relationship to the immediate surrounding area.

2. Surface Water and Subsurface Conditions.

- (a) Describe location, extent, and type of existing water and wetlands, including existing surface

drainage characteristics, both within and adjacent to the site.

- (b) Describe any proposed alterations of shore lines, marshes, or seasonal wet areas.
- (c) Describe any limitations imposed on the project by the site's soil and water conditions.
- (d) Describe the impact upon ground and surface water quality and recharge, including estimated phosphate and nitrate loading on groundwater and surface water from septic tanks, lawn fertilizer, and other activities within the site.

3. Circulation Systems.

- (a) Project the number of motor vehicles to enter or depart the site per average day and peak hour. Also state the number of motor vehicles to use streets adjacent to the site per average day and peak hour. Such data shall be sufficient to enable the special permit granting authority to evaluate (i) existing traffic on streets adjacent to or approaching the site, (ii) traffic generated or resulting from the site, and (iii) the impact of such additional traffic on all ways within and providing access to the site. Actual study results, a description of the study methodology, and the name, address, and telephone number of the person responsible for implementing the study, shall be attached to the DIS.

4. Support Systems.

- (a) Water Distribution: Discuss the types of wells or water system proposed for the site, means of providing water for fire-fighting, and any

problems unique to the site.

- (b) Sewage Disposal: Discuss the type of on-site or sewer system to be used, suitability of soils, procedures and results of percolation tests, and evaluate impact of disposal methods on surface and groundwater.
- (c) Refuse Disposal: Discuss the location and type of facilities, the impact on existing city refuse disposal capacity, hazardous materials requiring special precautions.
- (d) Fire Protection: Discuss the type, location, and capacity of fuel storage facilities or other flammables, distance to fire station, and adequacy of existing fire fighting equipment to confront potential fires on the proposed site.
- (e) Recreation: Discuss the distance to and type of public facilities to be used by residents of the proposed site, and the type of private recreation facilities to be provided on the site.
- (f) Schools: Project the increase to the student population for nursery, elementary, junior high school, and high school levels, also indicating present enrollment in the nearest public schools

5. Phasing. Where development of the site will be phased over more than one (1) year, indicate the following:

- (a) Describe the methods to be used during construction to control erosion and sedimentation through use of sediment basins, mulching, matting, temporary vegetation, or covering of soil stockpiles. Describe the approximate size and location of portion of the parcel to be

cleared at any given time and length of time of exposure.

- (b) Describe the phased construction, if any of any required public improvements, and how such improvements are to be integrated into site development.

9.3.5 Conditions. Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the special permit granting authority may deem necessary to serve the purposes of this ordinance. Such conditions may include, but are not limited to: private disposal of waste; deadline to commence construction; signage; alarm system; limits on vehicles, number of students, gender of residents, noise, possession of substances; maintenance requirements; landscaping, parking spaces; dust control; term for years with or without automatic renewals; sewer connection; bond; limitation to the term of ownership or use by the applicant.

9.3.6 Lapse. Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within 24 months following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s. 17, from the grant thereof) with the City Clerk.

9.3.7 Regulations. The special permit granting authority may adopt rules and regulations for the administration of this section.

9.3.8 Fees. The special permit granting authority may adopt reasonable administrative fees and technical review fees for applications for special permits.

9.4 SITE PLAN REVIEW

9.4.1 Applicability. The following types of activities and

uses shall require site plan review:

1. Construction, exterior alteration or exterior expansion of, or change of use within, a municipal, institutional, commercial, industrial, or multi-family structure with four or more dwelling units;
2. Construction or expansion of a parking lot for a municipal, institutional, commercial, industrial, or multi-family structure or purpose.

9.4.2 Minor Site Plan Approval. An application for permits to build, alter or expand any building, structure or use in any district where such construction (1) will not exceed a total gross floor area of 8,000 square feet and (2) will not generate the need for more than 25 parking spaces shall be deemed a "minor site plan." For the purposes of computing the total gross floor area or parking spaces, all such applications made within the five (5) previous calendar years shall be considered in the aggregate. Minor site plans shall be reviewed by the Inspector of Buildings.

1. Minor site plans may be required to set forth all of the information required by Section 9.4.5; provided, however, that the requirements for the preparation of such plans shall normally be relaxed by the Inspector of Buildings.
2. The Inspector of Buildings shall review and act upon the minor site plan within sixty (60) days of its receipt, and notify the applicant of its decision. The decision of the Inspector of Buildings shall be in writing.
3. No building permit or certificate of occupancy shall be issued by the Inspector of Buildings unless a minor site plan has been approved or unless 60 days lapse from the date of the submittal of the minor site plan without action.
4. The time for decision making may be extended by written

agreement of the parties.

9.4.3 Major Site Plan Approval. Major site plan review shall be conducted by the Planning Board and shall require a public hearing in accordance with the procedures set forth in G.L. c. 40A, ss. 9 and 11. Applicants shall submit five (5) copies of the site plan to the Planning Board for review, and within three (3) days thereafter shall also submit a copy of the site plan to the City Council, Board of Health, Department of Public Works, Inspector of Buildings, and Conservation Commission for their advisory review and comments. The Planning Board shall, upon written request and the payment of the cost of reproduction, submit one (1) copy of the site plan to any neighborhood improvement group in whose neighborhood the use is proposed. Said neighborhood improvement group must be registered with the City Clerk at the time of submittal of the site plan to the Planning Board.

1. *Waiver of Submittal Requirements.* The Planning Board may, upon written request of the applicant, waive any of the submittal requirements for major site plans set forth in Section 9.4.5 where the project involves relatively simple development plans.

9.4.4 General Procedural Requirements. The following procedures apply to both minor and major site plans.

1. *Application for Building Permit.* An application for a building permit to perform work as set forth in Section 9.4.1 available as of right shall be accompanied by an approved site plan.

2. *Application for Special Permit or Variance.* An application for a special permit or a variance to perform work as set forth in Section 9.4.1 shall be accompanied by a site plan approved in accordance with this Section 9.4; in the alternative, any special permit or variance granted for work set forth in Section 9.4.1 shall contain the following condition:

The work described herein requires the approval of a site plan pursuant to Section 9.4 of the Zoning Ordinance. Any conditions imposed in such site plan approval shall also be conditions of this special permit/variance.

3. *Conditions.* Where the Planning Board approves a site plan "with conditions", and said approved site plan accompanies a special permit or variance application to the Board of Appeals, the conditions imposed by the Planning Board shall be incorporated into the issuance, if any, of a special permit or variance by the Board of Appeals.

4. *Consolidation.* Where the Planning Board serves as the special permit granting authority for proposed work, it shall consolidate its site plan review and special permit procedures.

5. . *Deviation.* No deviation from an approved site plan shall be permitted without modification of the original site plan in accordance with the process set forth in this Section 9.4.

9.4.5 Preparation of Plans; Contents. Applicants are invited to submit a pre-application sketch of the proposed project to the Planning Board and to schedule a comment period at a regular meeting of the Planning Board. The applicant shall submit one (1) set of 24-inch by 36-inch sheets and nine (9) sets of 11-inch by 17-inch sheets. Plans shall be prepared by a Registered Professional Engineer, Registered Land Surveyor, Architect, or Landscape Architect, as appropriate. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. All plans shall have a minimum scale of 1"=20'. The contents of the site plan are as follows:

1. Six (6) separate plans prepared at a scale of one (1) inch equals twenty (20) feet or such other scale as may be approved by the planning board. The plans are as follows:

a. Locus plan, at a scale of one (1) inch equals one hundred (100) feet, showing the entire project and its relation to existing areas, buildings and roads for a distance of one thousand (1,000) feet from the project boundaries or such other distance as may be approved or required by the planning board.

b. Site layout, which shall contain the boundaries of the lot(s) in the proposed development, existing structures to be retained, proposed structures, drives, parking, fences, walls, walks, outdoor lighting, loading facilities, areas for snow storage after plowing, and all proposed recreational facilities and open space areas.

c. Topography and drainage plan, which shall contain the existing and proposed final topography at two-foot intervals and plans for handling stormwater drainage, and all wetlands including floodplain areas.

d. Utility plan, which shall include all facilities for refuse and sewage disposal or storage of all wastes, the location of all hydrants, fire alarm and firefighting facilities on and adjacent to the site.

e. Architectural plan, which shall include the ground floor plan and architectural elevations of all proposed buildings and a color rendering.

f. Landscaping plan, showing the limits of work, existing tree lines, and all proposed landscape features and improvements including screening, planting areas with size and type of stock for each shrub or tree, and including proposed erosion control measures.

2. The site plan shall be accompanied by a written statement indicating the estimated time required to

complete the proposed project and any and all phases thereof. There shall be submitted a written estimate, showing in detail the costs of all site improvements planned.

3. A written summary of the contemplated projects shall be submitted with the site plan indicating, where appropriate, the number of dwelling units to be built and the acreage in residential use, the evidence of compliance with parking and off-street loading requirements, the forms of ownership contemplated for the property and a summary of the provisions of any ownership or maintenance thereof, identification of all land that will become common or public land, and any other evidence necessary to indicate compliance with this ordinance.

4. The site plan shall be accompanied by drainage calculations by a registered professional engineer. Storm drainage design must conform to subdivision regulations.

5. A DIS shall be submitted with each site plan application as set forth in Section 9.3, above. The Planning Board may waive this requirement in accordance with Section 9.4.3.1 above.

6. Certification that the proposal is in compliance with the provisions, if applicable, of the Americans with Disabilities Act and the Massachusetts Architectural Barriers Board.

7. In the case of condominiums, cooperatives or similar forms of ownership for any real estate, a true copy of the Condominium Declaration or Articles of Incorporation, the Bylaws of the Owner's Association, and the Master Deed shall be submitted.

9.4.6 Decision. The Planning Board may impose reasonable conditions at the expense of the applicant, including but not limited to those set forth in Section 9.3.6, to promote these objectives. The Planning Board may withhold site plan approval

where information necessary to endorse the plan is lacking or where the plan indicates noncompliance with a provision of this Zoning Ordinance. In considering an application for site plan approval, the Planning Board shall use the following criteria:

1. The protection of visual corridors to the waterfront and/or Boston skyline.
2. The use of landscaping to establish buffers between incompatible land uses.
3. The provision of open spaces and pedestrian amenities available to the public.
4. The arrangement of access points, driveways, parking areas, and pedestrian walkways in a manner which facilitates interior circulation and minimizes conflict between vehicles and pedestrians.
5. Provisions for underground placement of utilities.
6. Provisions for surface run-off and the protection of the site and adjacent properties from erosion as a result thereof.
7. The siting of buildings, structures, and open spaces to permit maximum use of passive solar energy and to permit maximum protection of pedestrian areas from adverse impacts of winds, vapors or other emissions, and/or noise.
8. Provisions for maintenance of common areas.
9. In the case of application within the Waterfront District and the Industrial District:
 - a. The provision of linear access, access points where linear access cannot be provided, vantage points, sitting areas, and pedestrian amenities along the waterfront.

- b. The compatibility of new buildings and structures with existing development landward of the proposed development (including, in particular, the preservation of waterfront views from existing development).

10. Compliance with all applicable provisions of this Zoning Ordinance.

9.4.7 Lapse. Site plan approval shall lapse after two years from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant.

9.4.8 Regulations; Fees. The Planning Board may adopt and from time to time amend reasonable regulations for the administration of these Site Plan guidelines. The Planning Board may adopt reasonable administrative fees and technical review fees for site plan review.

9.4.9 Appeal. Any decision of the Planning Board pursuant to this Section 9.4 shall be appealed in accordance with the provisions of G.L. c. 40A, s. 17 to a court of competent jurisdiction.